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“Thousands” Illegally Rendered By Bush Administration for Interrogation, Torture

By Massachusetts School of Law
Global Research, November 29, 2007
Massachusetts School of Law Report 29 November 2007

Region: USA
Theme: Law and Justice

In violation of international and U.S. law, “thousands” of alleged terrorists have been victims of “extraordinary rendition” by the Bush Administration since 9/11, two legal scholars say. “Instead of working to bring those committing crimes against the United States to justice in U.S. courts, the Bush Administration seems intent on doing exactly the opposite—keeping such individuals away from U.S. courts, hidden in a web of secret prisons, underground interrogation cells, and in the hands of cooperative governments,” write Margaret Satterthwaite and Angela Fisher. Satterthwaite is an assistant professor of clinical law at NYU School of Law and Fisher served as assistant research scholar with the Center for Human Rights and Global Justice.

“Extraordinary renditions, whether originating in territories under U.S. control (actual or effective) or merely carried out by U.S. agents, are unlawful and in violation of international treaties to which the United States is a party,” the authors write. “Despite this clear prohibition, the Bush Administration continues to engage in this practice, using it to transfer detainees out of the reach of U.S. courts and into the realm of secret detentions and brutal interrogations.”

“Having altered the procedure from a transfer sanctioned by U.S. courts to a transfer that is extralegal, this Administration completed the transformation of extraordinary rendition from transfer to justice to transfer out of the justice system,” the authorities contend in an article titled “Tortured Logic: Renditions to Justice, Extraordinary Rendition, and Human Rights Law” published in “The Long Term View,” a journal of informed opinion published by the Massachusetts School of Law at Andover(Volume 6, No. 4).

The authors explain that extraordinary rendition is an updated form of “rendition to justice,” first secretly authorized in 1986 by President Reagan in National Security Decision Directive 207, which formalized U.S. policy to fight terrorism. It came into being, they say, because the U.S. in the 1980s did not have valid extradition treaties with countries that commonly housed terrorists or because those nations refused to give the suspects up. Under Reagan, they write, “it has never been suggested that the purpose of the program was to subject the detainees to torture or cruel, inhuman, or degrading treatment. Once in the United States, the rendered individual would be treated like any other federal detainee awaiting trial.” Satterthwaite and Fisher said President George H.W. Bush authorized specific procedures for renditions in 1993 through National Security Directive 77. President Clinton, they noted, went further “emphasizing rendition as a key counter-terrorism strategy” and signing presidential decision directive PDD-39 on June 21, 1995, which stated, in part, “Return of

suspects by force may be effected without the cooperation of the host government…" One outcome of the Clinton policy, the scholars write, was the rendition of Tal'at Fu'ad Qassim, an Egyptian national that had been granted asylum in Denmark and seized by the U.S. in Bosnia and transported to Egypt, where he was reportedly executed—the first known rendition by the U.S. of a victim to a third country with a record of torture. Between 1998 and 2000, the CIA rendered more than two dozen suspects, then-CIA Director George Tenet testified. In 2004, Tenet testified before Congress there had been more than 80 renditions prior to September 11, 2001.

Since 9/11, the scholars wrote, renditions have been used not to obtain jurisdiction over the suspects in order to prosecute "but instead to get an individual to talk." Previous renditions that required approval by an inter-agency group that included the Departments of Justice and State, were now placed in the hands of the CIA, which could render suspects "without consultation."

Satterthwaite and Fisher write extraordinary rendition is prohibited by a number of international human rights treaties the U.S. has signed, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment("CAT"), and the International Convenant on Civil and Political Rights(ICCPR, or "the Covenant").

Both prohibit the refoulement, or transfer, of an individual to another state where the person faces the risk of torture. Both treaties require ratifying states to institute domestic laws penalizing torture and CAT specifically requires states to criminalize conspiracy and aiding and abetting in torture.

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